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17 SUPERIOR COURT OF THE STATE OF WASHINGTON  
18 FOR KING COUNTY  
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20 WASHINGTON FAMILIES STANDING  
21 TOGETHER and ANNE LEVINSON,

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23 Plaintiffs,

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25 v.

26 SECRETARY OF STATE SAM REED, in  
27 his official capacity,

28  
29 Defendant.  
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No. 09-2-31908-1SEA

PLAINTIFFS' OPPOSITION TO MOTION  
TO INTERVENE

**Noted for Hearing**  
**August 31, 2009 2:30 p.m.**

35  
36 Plaintiffs Washington Families Standing Together (WAFST) and Anne Levinson  
37 oppose the Motion to Intervene by Protect Marriage Washington (PMW), at least unless the  
38 putative intervenor agrees to conditions necessary to prompt resolution of plaintiffs' claims  
39 and protection of plaintiffs' rights.  
40  
41

42 The existing parties to the lawsuit agree that time is of the essence. Assuming the  
43 referendum legally qualifies, defendant Secretary of State (SOS) must work with counties to  
44 arrange for ballots to be printed and distributed for both vote-by-mail and overseas  
45  
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MOTION FOR TEMPORARY  
RESTRAINING ORDER – 1

71718-0001/LEGAL16852964.1

**Perkins Coie LLP**  
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1 distribution. While September 10 might not be the last opportunity for that, there is no  
2 question that the deadline is fast approaching. Moreover, time must be left in advance of  
3 that deadline for the statutorily-authorized challenge to SOS decisions on signatures, which  
4 SOS says can only be filed after, but within five days of, certification. To help meet these  
5 deadlines, plaintiffs filed this lawsuit the day after SOS confirmed its position on the two  
6 legal issues involved. This action was filed in advance of any signature challenge process  
7 because the issues are different and because this lawsuit might make that process  
8 unnecessary. In light of the urgency, the Court has rearranged its busy schedule, and SOS  
9 agreed to prepare and file its opposition pleadings this weekend.  
10

11 PMW is certainly not a necessary party to the lawsuit, which challenges the  
12 interpretation of state law by state officials. PMW might well have an interest, but on the  
13 issues presented by plaintiffs PMW's interest is totally consistent with, and fully protected  
14 by, SOS. Moreover, the issues are legal, not factual, and PMW can participate in those as an  
15 amicus.  
16

17 Critically, PMW has already caused delay, and any intervention should not be  
18 allowed to cause further delay. PMW could have submitted petitions as they were  
19 completed, which would have resulted in early identification of the statutory violations now  
20 at issue. Instead, PMW waited until the absolutely deadline, the afternoon of July 25, to  
21 submit more than 9,000 petitions with over 137,000 apparent signatures to the SOS.  
22 Moreover, because PMW was unable to collect a comfortable margin of signatures over the  
23 constitutional minimum, the SOS has had to undertake a month-long detailed review of  
24 individual signatures and registrations. And because PMW succeeded in enjoining access to  
25 public records relating to the petition, SOS has refused to allow plaintiffs to see the backs of  
26 the petitions (where the signature-gatherer declarations are supposed to be printed and the  
27 gatherer's name filled in) or to check the registration status of signers, thus further delaying,  
28 if not precluding, preparation for the challenge that SOS suggests is available.  
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1 In light of the urgency of the situation and the delay already caused by PMW, any  
2 participation by PMW should be conditioned on its agreement to comply with all deadlines  
3 agreed to by the parties, to avoid duplicating arguments made by SOS, and not to seek  
4 reassignment or other procedure that would delay resolution of the merits.  
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8 DATED: August 30, 2009  
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**PERKINS COIE LLP**

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11  
12 By: s/David J. Burman  
13

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18 Attorneys for Plaintiffs  
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